



**FOLEY  
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ATTORNEYS AT LAW

July 25, 2005

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**.pdf File via E-Mail**  
**By Hand**

Ms. Mary L. Cottrell  
Secretary  
Department of Telecommunications & Energy  
One South Station  
Boston, MA 02110

Re: D.T.E. 05-47 -- Petition of NSTAR Gas Company

Dear Ms. Cottrell:

On behalf of Dartmouth Power Associates Limited Partnership, I enclose for filing in the above-referenced docket one original and four copies of the Petition for Leave to Participate of Dartmouth Power Associates Limited Partnership. A copy will also be filed electronically.

Kindly date stamp the enclosed copy of this letter, and return same to our messenger.

Thank you for your attention to this matter.

Sincerely yours,

Mary Beth Gentleman

MBG:jrd  
Enclosures

cc: Carol M. Pieper, Hearing Officer  
Joseph W. Rogers, Esquire  
Cheryl M. Kimball, Esquire  
John K. Habib, Esquire  
Robert T. Powell, Esquire  
Mr. Timothy J. Sullivan  
Mr. Steven M. Pike

**COMMONWEALTH OF MASSACHUSETTS**

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Petition of NSTAR Gas Company for approval by the	)	
Department of Telecommunications and Energy	)	D.T.E. 05-47
pursuant to G.L. c. 164, § 94A, to accept a release of	)	
long-term transportation capacity under an agreement	)	
with Dartmouth Power Associates Limited Partnership	)	
<hr/>	)	

**PETITION FOR LEAVE TO PARTICIPATE OF**

**DARTMOUTH POWER ASSOCIATES LIMITED PARTNERSHIP**

Dartmouth Power Associates Limited Partnership (“Dartmouth Power”) hereby submits to the Department of Telecommunications and Energy (the “DTE”) a petition for leave to participate in the above-captioned proceeding (the “Petition”), pursuant to 220 C.M.R. 1.03(1). In support of its Petition, Dartmouth Power states as follows:

1. Dartmouth Power is a Massachusetts limited partnership having its principal place of business at One Energy Road, Dartmouth, MA 02747.
2. Dartmouth Power operates a sixty eight (68) megawatt gas-fired generating facility in Dartmouth, Massachusetts (the “Facility”). Dartmouth Power has a certain AFT-1(AFT-2) Service Agreement with Algonquin Gas Transmission Company dated November 1, 1994 (“Service Agreement”) pursuant to which Algonquin provides gas transportation capacity for the Facility.
3. Dartmouth Power and NSTAR Gas Company (“NSTAR”) are parties to a Permanent Release Agreement, dated June 29, 2005, pursuant to which Dartmouth Power agrees

to permanently release to NSTAR all of the gas transportation capacity to which Dartmouth Power is entitled under the Service Agreement.

4. On June 30, 2005, NSTAR petitioned the DTE pursuant to G.L. c. 164, § 94A for approval of the Permanent Release Agreement.

5. Pursuant to G.L. c. 30A, § 10, the DTE may “allow any person showing that he may be substantially and specifically affected by the proceeding to intervene as a party in the whole or any portion of the proceeding, and allow any other interested person to participate by presentation of argument orally or in writing, or for any other limited purpose as the [DTE] may order.” *See also* 220 CMR 1.03(1)(e).

6. Dartmouth Power seeks to participate in this proceeding because the DTE’s determination and findings in this proceeding will have a direct bearing on Dartmouth Power. Dartmouth Power is a party to the Permanent Release Agreement, approval of which is being sought by NSTAR in this proceeding. Implementation of the transaction contemplated under the Permanent Release Agreement is contingent upon receipt of approval by the DTE. *See* Permanent Release Agreement, Articles 3.2(a) and 3.3(a). Performance by both NSTAR and Dartmouth Power under the Permanent Release Agreement is contingent upon the issuance of an order by the DTE, in form and substance reasonably satisfactory to NSTAR and Dartmouth Power, approving the terms of the Permanent Release Agreement. *Id.* Without Department approval of the Permanent Release Agreement, Dartmouth Power will not be able to release its gas transportation capacity under the Service Agreement to NSTAR as contemplated in the Permanent Release Agreement. Dartmouth Power is thus substantially and specifically affected by the outcome of this proceeding.

7. No other party can adequately represent Dartmouth Power's interest, as Dartmouth Power's legal rights and duties are affected. Moreover, no other party can represent Dartmouth Power's interest as a party to the Permanent Release Agreement.

8. DTE precedent supports the intervention of contracting parties in proceedings affecting their contracts or agreements. *See e.g., Boston Edison Co./Commonwealth Electric Co.*, D.T.E. 98-119/98-126 (1998), at 1 (granting Entergy Nuclear Generation Company leave to intervene in the DTE's review of a Power Purchase Agreement between Boston Edison Company and Entergy); *Canal Electric Co.*, D.T.E. 02-34 (2002), at 1 (granting FPL Energy Seabrook leave to intervene in the DTE's review of a Purchase and Sale Agreement between FPL Energy Seabrook and Canal); *Commonwealth Electric Co./Cambridge Electric Light Company*, D.T.E. 04-60 (2004), at 1; *Boston Edison Co./Commonwealth Electric Co.*, D.T.E. 04-61 (2005), at 2; *Commonwealth Electric Company d/b/a NSTAR Electric*, D.T.E. 04-78(2005), at 2 (granting Dartmouth Power leave to intervene in the DTE's review of Dartmouth Power's Purchase and Sale Agreement with Commonwealth Electric).

9. Dartmouth Power seeks to participate on a limited basis, including having the right to submit a brief and reply brief and file any pleadings necessary to protect its interests in this case.

10. The Petitioner, NSTAR, has no objection to Dartmouth Power obtaining limited participant status in this proceeding.

11. Dartmouth Power requests that all notices, testimony, pleadings and correspondence pertaining to this proceeding be directed to:

Mary Beth Gentleman  
Mark A. Barnett  
Foley Hoag LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, MA 02210  
mgentleman@foleyhoag.com  
mbarnett@foleyhoag.com

WHEREFORE, Dartmouth Power respectfully requests that the DTE grant its Petition for Leave to Participate in this proceeding.

Respectfully submitted,

**DARTMOUTH POWER ASSOCIATES  
LIMITED PARTNERSHIP**

By its attorneys,

A handwritten signature in cursive script, appearing to read "Mary Beth Gentleman", written over a horizontal line.

Mary Beth Gentleman  
Mark A. Barnett  
Foley Hoag LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, MA 02210  
(617) 832-1000

Dated: July 25, 2005